

**Chapter 458-65A WAC
UNCLAIMED PROPERTY**

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WAC

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WAC 458-65A-10001 Brief adjudicative proceedings for matters related to penalties and interest imposed under the Revised Uniform Unclaimed Property Act, chapter 63.30 RCW. (1) **Introduction.** The department of revenue (department) conducts adjudicative proceedings pursuant to chapter 34.05 Revised Code of Washington (RCW), the Administrative Procedure Act (APA). The department will use a brief adjudicative proceeding as provided in RCW 34.05.482 through 34.05.494 to determine the following issues:

(a) Whether a holder is liable for accrued interest for failure to pay or deliver property to the department;

(b) Whether a holder is subject to the 10 percent penalty for failure to timely file a report or pay or deliver any amounts or property due under a report;

(c) Whether a holder is subject to the 10 percent penalty for an assessment following an examination, of amounts unpaid or property not delivered;

(d) Whether a holder is subject to the five percent penalty for failure to timely pay or deliver property due under an assessment; and

(e) Whether a holder is subject to the five percent penalty for failing to electronically file a report or pay electronically.

(2) **Waivers.**

(a) For subsection (1)(a) of this rule, interest may be waived for circumstances sufficient for waiver or cancellation of interest under RCW 63.30.690.

(b) For subsection (1)(b) through (d) of this rule, penalties may be waived for circumstances sufficient for waiver or cancellation of penalties under RCW 63.30.690.

(c) For subsection (1)(e) of this rule, the department may relieve any holder from the electronic filing requirement for good cause as determined by the department. "Good cause" means:

(i) A circumstance or condition exists that, in the department's judgment, prevents the holder from electronically filing the report due under RCW 63.30.220; or

(ii) The department determines that relief from the electronic filing requirement supports the efficient or effective administration of chapter 63.30 RCW.

(3) **Multiple penalties.** The assessment of more than one type of penalty against a holder will be determined in a single brief adjudicative proceeding if those penalties were assessed in the same notice of assessment.

(4) **Holder defined.** Holder, as applied throughout this rule means a person obligated to hold for the account of, or to deliver or pay to, the owner, property that is subject to chapter 63.30 RCW, the Revised Uniform Unclaimed Property Act.

(5) **Record in brief adjudicative proceedings.** The record with respect to a holder's petition for review under RCW 34.05.482 through 34.05.485 will consist of:

- (a) The holder's unclaimed property report and electronic confirmation of report;
- (b) Application for penalty and interest waiver;
- (c) Application for refund of property, interest, or penalty;
- (d) The holder's unclaimed property petition for review;
- (e) Request for relief from electronic filing and payment requirements;
- (f) Department's letter of denial for refund or return of property, if any; and
- (g) All correspondence between the holder and the department regarding the penalty, interest, or refund in question.

(6) **Conduct of brief adjudicative proceedings.**

(a) If the department assesses penalties and interest under chapter 63.30 RCW, it will notify the holder of the penalties and interest in writing and state the reason for the penalties and interest. To initiate a review of the department's assessment of penalties and interest, the holder must file a written petition for review no later than 90 days after the holder receives the determination from the administrator pursuant to RCW 63.30.680 or from any extension of the due date granted by the department, or in the case of a refund or return application, 30 days after the department rejects the application in writing, regardless of any subsequent action by the department to reconsider its initial decision. The period for filing a petition for review under this section may be extended upon a written agreement signed by the holder and the department. See RCW 63.30.730.

(b) A form notice of petition for review is available at dor.wa.gov or by calling 360-534-1502. The completed form must be mailed, emailed, or faxed to the department at:

Mail:

Washington State Department of Revenue
Unclaimed Property Section
P.O. Box 47477
Olympia, WA 98504-7477

Email: UCP@dor.wa.gov

Fax: 360-534-1498

(c) At the time the petition is filed, the holder must submit to the unclaimed property section, all arguments and any evidence or written material relevant to the matter that the party wishes the presiding officer to consider. No witnesses may offer testimony.

(d) A presiding officer, who will be the unclaimed property claims and outreach manager of the unclaimed property section or such other person as designated by the director of the department, will conduct brief adjudicative proceedings. The presiding officer for brief adjudicative proceedings will have agency expertise in the subject matter but will not otherwise have participated in the assessment of penalties on the holder.

(e) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis in making a decision.

(f) Within 21 days of receipt of the holder's petition for review, the presiding officer will enter an initial order, including a brief explanation of the decision per RCW 34.05.485. All orders will be in writing. The initial order will become the department's final order unless a timely petition for review is filed with the department's administrative review and hearings division as provided in subsection (7) of this rule.

(7) Review of initial orders from brief adjudicative proceeding.

(a) A holder may request a review by the department of an initial order issued per subsection (6) of this rule by filing a written petition for review with the department's administrative review and hearings division within 21 days of service of the initial order on the holder. See RCW 34.05.488. At the time the petition is filed, the holder must submit to the administrative review and hearings division all arguments and any evidence or written material relevant to the matter that the party wishes the reviewing officer to consider.

(b) An unclaimed property petition for review of an initial order per subsection (6) of this rule is available at dor.wa.gov. The completed petition must be mailed, emailed, or faxed to the department at:

Mail:

Washington State Department of Revenue
Administrative Review and Hearings Division
P.O. Box 47460
6400 Linderson Way S.W.
Olympia, WA 98504-7460
Email: DORARHDadmin@dor.wa.gov
Fax: 360-534-1340

(c) A reviewing officer, who will be either the assistant director of the administrative review and hearings division or such other person as designated by the director, will conduct a brief adjudicative proceeding and determine whether the department's initial order issued per subsection (6) of this rule was correct based on the criteria set forth in RCW 63.30.690. The reviewing officer will review the record and, if needed, convert the proceeding to a formal adjudicative proceeding in accordance with subsection (8) of this rule.

(d) The agency record need not constitute the exclusive basis for the reviewing officer's decision. The reviewing officer will have the authority of a presiding officer.

(e) The reviewing officer will issue a written order that includes a brief statement of the reasons for the decision, within 20 days of the date the petition for review was filed. The order will include a notice that judicial review may be available. The order of the reviewing officer represents the final decision of the department.

(f) A request for review is deemed denied if the department does not issue an order on review within 20 days after the petition for review is filed, unless a continuance is issued under subsection (12) of this rule. See RCW 34.05.491(5).

(8) Conversion of a brief adjudicative proceeding to a formal proceeding. The presiding officer or reviewing officer may convert the brief adjudicative proceeding to a formal proceeding at any time on motion of the holder, the department, or the presiding or reviewing officer's own motion.

(a) The presiding or reviewing officer will convert the proceeding when it finds that the use of the brief adjudicative proceeding violates any provision of law, the protection of the public interest requires the agency to give notice to and an opportunity to participate to persons other than the holder and department, or when the issues and interests involved warrant the use of the procedures of RCW 34.05.413 through 34.05.479.

(b) When a proceeding is converted from a brief adjudication to a formal proceeding, the director may become the reviewing officer or

may designate a replacement reviewing officer to conduct the formal proceedings upon notice to the holder and the department.

(c) In the conduct of the formal proceedings, WAC 458-20-10002(2) will apply to the proceedings.

(9) **Court appeal.**

(a) A holder may appeal a final order of the department under Part V, chapter 34.05 RCW, when a review of the initial decision has been requested under subsection (7) of this rule and all other administrative remedies have been exhausted. See RCW 34.05.534.

(b) A holder who has already paid or delivered property to the department may appeal directly to the superior court of Thurston County for a refund of such payment or property instead of appealing to the department. See RCW 63.30.740.

(10) **Computation of time.** In computing any period of time prescribed by this rule, the day of the act or event after which the designated period is to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays and holidays are excluded in the computation. Service as discussed in subsection (11) of this rule is deemed complete upon mailing.

(11) **Service.** All notices and other pleadings or papers filed with the presiding or reviewing officer must be served on the holder, their representatives/agents of record, and the department's representative.

(a) Service is made by one of the following methods:

(i) In person;

(ii) By first-class, registered or certified mail;

(iii) By fax and same-day mailing of copies;

(iv) By commercial parcel delivery company; or

(v) By electronic delivery.

(b) Service by mail is regarded as completed upon deposit in the United States mail properly stamped and addressed.

(c) Service by electronic fax is regarded as completed upon the production by the fax machine of confirmation of transmission.

(d) Service by commercial parcel delivery is regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(e) Service by electronic delivery is regarded as completed on the date that the department electronically sends the information to the parties or electronically notifies the parties that the information is available to be accessed by them.

(f) Service to a holder and to their representative/agent of record must be to the address(es) shown on the petition for review.

(g) Service to the department's representative must be to the unclaimed property section at the address shown in subsection (6) of this rule.

(h) Service to the reviewing officer must be to the administrative review and hearings division at the address shown in subsection (7) of this rule.

(i) Where proof of service is required, the proof of service must include a certificate, signed by the person who served the document(s), stating the date of service; that the person did serve the document(s) upon all or one or more of the parties of record in the proceeding by delivering a copy to (names); and that the service was accomplished by a method of service as provided in this subsection.

(j) Failure to serve documents on all parties of record in the proceeding in a manner prescribed by this subsection will result in an unlawful ex parte contact. An ex parte contact cannot constitute evidence of any fact at issue in the matter unless the party complies with RCW 34.05.455(5).

(12) **Continuance.** The presiding officer or reviewing officer may extend any filing deadline or move the date of any hearing by motion of the holder, the department, or on its own motion.

[Statutory Authority: RCW 63.30.030. WSR 23-08-003, § 458-65A-10001, filed 3/22/23, effective 4/22/23. Statutory Authority: RCW 63.29.370. WSR 18-11-103, § 458-65A-10001, filed 5/21/18, effective 6/21/18.]

WAC 458-65A-10005 Examinations of records. (1) Introduction.

(a) A holder of unclaimed property must report and deliver that unclaimed property to the department of revenue as provided in chapter 63.30 RCW, the Revised Uniform Unclaimed Property Act.

(b) The department, as the administrator of unclaimed property under the act, is permitted to conduct examinations of records to determine a holder or putative holder's compliance with the act.

(c) This rule establishes standards and procedures applicable to these examinations, including examinations conducted by third parties on behalf of the department. RCW 63.30.590.

(d) Part I of this rule relates to general examination standards including holder requirements, underlying authorizations, the use of estimation, periods of limitation, records disclosure, and holder remedies.

(e) Part II of this rule outlines the specific examination procedures, which consist of three phases:

- (i) Opening conference and gathering of preliminary information;
- (ii) Identification of a holder's unclaimed property; and
- (iii) Conclusion of the examination.

(f) The following definitions apply to the corresponding terms used throughout this rule:

(i) "Act" means chapter 63.30 RCW, the Washington Revised Uniform Unclaimed Property Act.

(ii) "Examination," for the purposes of this rule, means an audited review of holder records conducted pursuant to the act.

(iii) "Examiner" means the person who conducts examinations of holder records on behalf of the department and may include the department, department employees, and third-party examiners.

(iv) "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner, property that is subject to the act. For purposes of this rule, the term "holder" may encompass either a "holder" or a "putative holder." "Holder" also includes a holder's agent in possession of property or records, where relevant.

(v) "Putative holder" means a person believed by the department to be a holder, until the person pays or delivers to the department unclaimed property subject to the act, or the department or a court makes a final determination that the person is or is not a holder.

(vi) "Record" means information inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(vii) "Third-party examiner" means a person, other than the department or a department employee, who conducts an examination on behalf of the department pursuant to RCW 63.30.650.

(viii) "Unclaimed property" is property:

(A) Presumed to be abandoned after the time periods set forth in RCW 63.30.040 through 63.30.120; and

(B) In the custody of a holder who has been unable to contact the owner or obtain an owner's indication of interest in the property after making any good faith efforts such as providing notice under RCW 63.30.280 and 63.30.290.

PART I. GENERAL STANDARDS

(2) **Holder requirements.** A holder of unclaimed property must submit a report to the department for any unclaimed property to be delivered to the custody of the department. The report must be filed electronically pursuant to instructions from an examiner, the department, or provided on the department's website. The holder must retain related records for a period of six years after the report was filed or was due to be filed. RCW 63.30.220 and 63.30.250. The records must contain:

(a) The information that the holder is required to include in the report under RCW 63.30.230 and the department's rules;

(b) The date, place, and nature of the circumstances that gave rise to the property right;

(c) The amount or value of the property;

(d) The last address of the apparent owner, if known to the holder; and

(e) If the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue. RCW 63.30.250.

(3) **Examinations authorized.** The department may conduct examinations as follows:

(a) Examine records in possession of either a holder or a holder's agent, if such records are reasonably necessary to determine that person's compliance with the act.

(b) Issue an administrative subpoena requiring the holder or holder's agent to make the requested records available.

(c) Bring an action seeking judicial enforcement of the subpoena. RCW 63.30.580.

(4) **Third-party examinations authorized.**

(a) The department may contract with a third-party examiner to conduct an examination under the act. RCW 63.30.650.

(b) If the third-party examiner is an individual, they may not be related to any department employee.

(c) If the third-party examiner is a business, it may not be owned by the department, a department employee, or by an individual related to a department employee.

(d) Contracts for third-party examiners:

(i) Must be awarded pursuant to chapter 39.26 RCW;

(ii) May provide for compensation on a fixed fee, hourly fee, or contingent fee;

(iii) May not provide for a contingency fee exceeding 10 percent of the value of the property paid or delivered as a result of examination;

(iv) May, upon request, be reviewed by the person subject to examination; and

(v) Are subject to public disclosure under chapter 42.56 RCW.

(5) **Insufficient records.**

(a) If a holder subject to an examination does not retain and provide sufficient records for an examiner to determine the value of the unclaimed property under examination, the department or its third-party examiners may determine the value of such property using a reasonable method of estimation based on all information available. RCW 63.30.620.

(b) A reasonable method may include extrapolation and use of statistical sampling when appropriate and necessary.

(6) **Reasonable method of estimation.** In cases where the department or its third-party examiner use estimation, including extrapolation or statistical sampling to conduct an examination, those methods and procedures will be conducted consistent with generally accepted auditing standards applicable to the conduct of unclaimed property examinations and designed to lead to an estimation based on all available information that reasonably approximates the amount of unclaimed property that should have been reported to the state. The department or its third-party examiner shall permit the holder a reasonable opportunity to comment on or suggest estimation methods and procedures; however, the ultimate decision to employ a particular technique is at the sole discretion of the department.

(7) **Persons who submit required reports.** If a holder has retained records as required by RCW 63.30.250 and submitted reports to the department as required by RCW 63.30.220, the department or third-party examiner:

(a) Must include a review of the holder's records as part of the examination;

(b) May not use an estimate as the basis for the examination, unless the holder expressly consents to the use of estimation, or fails to make sufficient records available for examination; and

(c) Will consider evidence presented in good faith by the holder. RCW 63.30.590.

(8) **Holders who do not submit required reports.** If a holder does not submit reports to the department as required by RCW 63.30.220, or the department believes they may have filed an inaccurate, incomplete, or false report, the department may require the holder to file a verified report prior to or after any examination proceeding. RCW 63.30.570.

(9) **Statute of limitations.**

(a) If a holder files a report meeting the requirements of RCW 63.30.220 and 63.30.230, the department, absent a showing of fraud, may not issue a determination of liability under RCW 63.30.680 more than six years after the holder filed the report. The parties may agree in a record to extend this period.

(b) The department may not issue a determination of liability under RCW 63.30.680 or otherwise commence an action, proceeding, or examination with respect to a reporting obligation or other duty of a holder under the act more than 10 years after the duty arose, including circumstances where the holder:

(i) Fails to file a report with the department;

(ii) Files an incomplete report with the department; or

(iii) Files a fraudulent report with the department.

(10) **Records obtained.**

(a) Pursuant to RCW 63.30.600, records, including work papers, obtained during the course of an examination:

(i) May be used in an action to collect property or otherwise enforce the act;

(ii) May be used to conduct a joint examination with another government entity; and

(iii) Are subject to the confidentiality and disclosure provisions set forth under RCW 63.30.600.

(b) A holder under examination may require that each person having access to its records execute and deliver a confidentiality agreement pursuant to RCW 63.30.840.

(11) Holder remedies.

(a) If a holder believes the examiner has made an unreasonable or unauthorized request, or is not proceeding expeditiously to complete the examination, the holder may request that the department intervene and take appropriate remedial action. The request must be made in the form of a written notice to the department's unclaimed property unit. RCW 63.30.640.

(b) Appropriate measures may include:

(i) Canceling or modifying requests made by the examiner;

(ii) Imposing a time limit for completion of the examination; or

(iii) Reassigning the examination to a different examiner.

(c) The person under examination may also request, in a written notice to the department's unclaimed property unit, for a conference to review any intervention request made under this subsection. If a request for conference is made, the department must hold a conference within 30 days after receiving the request. The department will provide a written report of the conference to the person within 30 days from the date the conference ends.

(d) Written notices to the department's unclaimed property unit may be made by submitting either:

(i) A paper request addressed to Department of Revenue, Unclaimed Property, ATTN: Unclaimed Property Audit Manager, P.O. Box 47477, Olympia, WA 98124-1053; or

(ii) An email request sent to WAUCPHolders@dor.wa.gov.

PART II. EXAMINATION PROCEDURES

(12) Phase I: Opening conference and preliminary information.

(a) The examiner will begin the examination by arranging for an opening conference to be held between the examiner and the holder. During the opening conference, the examiner will provide the holder with information and materials relevant to the examination process, including the following:

(i) The time period to be covered by the examination;

(ii) The general methods to be employed, including any anticipated sampling and estimation, if applicable; and

(iii) The names and contact information of department employees designated for department communications regarding the examination.

(b) The examiner will provide instructions for the holder to remit any unclaimed property identified during the examination that must be turned over to the department. In cases involving the contents obtained from safe deposit boxes, the holder will deliver such contents directly to the department, as directed by the department.

(13) Phase II: Identification of holder's unclaimed property.

(a) The examiner may request any holder records the examiner deems relevant to the examination. The holder must provide the requested records within 30 days of the date on the examiner's written request, unless the examiner agrees to a longer period.

(b) If a holder is required to include personal information, as defined under RCW 63.30.810, the information must be provided by a se-

cure means and all confidential information must be maintained in accordance with RCW 63.30.860. "Personal information" means:

(i) Information that identifies or reasonably can be used to identify an individual (or any beneficiary of such individual), such as first and last name in combination with the individual's Social Security number or other government-issued number or identifier; date of birth; home or physical address; email address or other online contact information or internet provider address; financial account number or credit or debit card number; biometric data, health or medical data, or insurance information; passwords or other credentials that permit access to an online or other account;

(ii) Personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and

(iii) Any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data or if lost or misused, would require notice or reporting under chapter 19.255 RCW and federal privacy and data security law, whether or not the department or the department's agent is subject to the law.

(c) Once sufficient records have been obtained from the holder, the examiner will proceed with its analysis and any determination of holder liability. The examiner will prepare an initial audit report summarizing its findings and will provide the report to the holder.

(d) If the holder disagrees with the amount the examiner has determined to be due in the initial report:

(i) The examiner will work in good faith with the holder to review additional information that the holder believes could affect the examiner's findings;

(ii) It is the holder's responsibility to provide supporting evidence relating to any discrepancies;

(iii) The examiner will allow a period of time not to exceed 90 days, unless an extension is granted by the examiner for the holder to submit additional information and supporting evidence; and

(iv) If, after 30 days following an examiner's review of any additional information and evidence, the holder and examiner still fail to agree on an amount due, the examiner will proceed with finalizing its audit report.

(14) Phase III: Conclusion of examination.

(a) At the conclusion of the examination, the examiner will prepare a final audit report containing the examiner's findings. The examiner or the department will provide a complete and unredacted copy of the final report to the holder.

(b) The final report will include:

(i) The findings of the examiner conducting the examination, as well as a description of the work that was performed and the property reviewed; and

(ii) Calculations of the value of any unclaimed property due, and a description of the methodology of any estimation, extrapolation, or statistical sampling used to determine such value. RCW 63.30.630.

(c) The examiner's final report will be prepared in a manner prescribed by the department. Any examination records will be subject to the confidentiality and disclosure requirements set forth in RCW 63.30.600.

(d) If the holder has property in its possession that must be reported and remitted, the department will issue a determination identifying the amounts due or property deliverable to the department and

include the determination with the report. Amounts due may include any interest and penalties applicable under RCW 63.30.690.

(e) The holder must electronically file the final report pursuant to the instructions from either the examiner or the department, or both, and deliver any amounts or property identified in a department determination within 30 days of the date of the final audit report.

(f) The holder may request an informal conference with the department to review the department's determination pursuant to RCW 63.30.710. The following provisions apply to informal conferences:

(i) The holder's request must be in the form of a written notice to the department's unclaimed property unit (see subsection (11)(d) of this rule) and be made within 30 days after the holder's receipt of the determination;

(ii) If a timely request is made, the department must, within 20 days, arrange for a conference to be held;

(iii) The conference must provide the holder an opportunity to informally discuss the examination with the department and the examiner who conducted the examination;

(iv) No later than 20 days after the conference ends, the department will issue a written decision on the matters discussed at the conference. The decision will identify any changes to the determination and other actions, if any, proposed by the department;

(v) A request for an informal conference under this subsection does not toll the 30-day period in subsection (14)(e) of this rule, and a conference under this subsection is not an administrative remedy or a contested case subject to the Administrative Procedure Act in chapter 34.05 RCW;

(vi) If the department issues a revised determination as a result of the informal conference, the department may, but is not required to, provide a second informal conference if requested by the holder as provided in this rule. A request for a second informal conference will be granted only in exceptional circumstances; and

(vii) Additionally, the department may, in its sole discretion, hold an informal conference without a request from the holder at any time before the holder initiates administrative review under RCW 63.30.730 or files an action under RCW 63.30.740.

(g) A holder may seek administrative review of a determination issued by the department. RCW 63.30.730.

(h) A holder who has paid or delivered property to the department, except one who has failed to keep and preserve records as required by the act, may appeal to the Thurston County superior court the provisions of RCW 63.30.740 govern such appeals.

[Statutory Authority: RCW 82.01.060(2), 82.32.300, 63.30.030, and 63.30.590. WSR 25-08-016, s 458-65A-10005, filed 3/24/25, effective 4/24/25.]